

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 2333**
Toshimitsu ISHIKAWA et al. : Docket No. 00724/P10-258981/AM/SAN/US
Serial No. 09/393,168 : Group Art Unit 1617
Filed September 10, 1999 : Examiner Edward J. Webman
SOFT CAPSULE : **Mail Stop Amendment**

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEE FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975.

Sir:

Responsive to the Office Action of August 31, 2004, the time for responding thereto being extended for three months in accordance with a Petition for Extension of Time submitted herewith, Applicants submit the following remarks in support of the patentability of the presently claimed invention over the disclosures of the references relied upon by the Examiner in rejecting the claims. Further and favorable reconsideration is respectfully requested in view of these remarks.

Thus, the rejection of claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over Miskel et al. (USP 3,851,051) in view of Tanner et al. (USP 5,569,466) is respectfully traversed.

According to Miskel et al., aqueous solutions or suspensions of active ingredients are prepared by using water as a solvent. In the soft capsule of Miskel et al., the macromolecular gel-lattice matrix is a rigid gel system which sets upon cooling and/or drying so as to reach a stable equilibrium with respect to the shell moisture content. According to the present invention, such a drying operation is not required and water is not necessarily required. In addition, Miskel et al. does not mention that addition of the pectin increases the amount of the active ingredients contained in the aqueous solution or suspension.

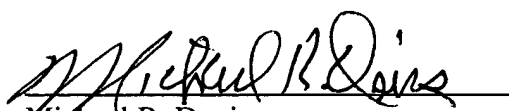
In the soft elastic gel capsule of Tanner et al., maltitol syrup is used as a carrier medium for active ingredients added thereto to form a homogenized mixture in a solution or suspension form. When the maltitol syrup of Tanner et al. is applied to the gel-lattice vehicle of Miskel et al., they are incompatible with each other in terms of their functions. Therefore, it is unreasonable to combine the teachings of Miskel et al. and Tanner et al. Ex parte Hartman, 186 USPQ 366.

For these reasons, Applicants take the position that the presently claimed invention is patentable over the applied references.

Therefore, in view of the foregoing remarks, it is submitted that the ground of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Toshimitsu ISHIKAWA et al.

By: 
Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/pth
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
February 28, 2005